

**Law Office of C. Craig Holley**

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May 28, 2013

Tim Crose  
Assistant Director  
Pacific County Department of Community Development  
1216 W. Robert Bush Drive  
South Bend, WA 98586

Dear Mr. Crose,

In response to your letters of April May 6, 2013, I offer the following and include responsive documents. By providing these comments and data, the Larsons in no manner concur with the County's, or any agencies, determinations or conclusions regarding the use, characterization, history, or applicable laws, including the SEPA requirement and referenced WAC 173-350-040 and 173-350-230.

1. Agronomic rates report is attached.
2. Larsons have made a considerable capital investment in larger scale farming equipment, including 300 horsepower tractor and 26 foot wide tandem disc which will ensure faster, deeper, and more efficient spreading and tillage of the shells. This equipment can operate in any typical or normal freezing conditions. The Larsons will take all reasonable precautions regarding odors, while noting the allegations of odors are mainly spurious and pre-textual. Prevailing winds, although sometime varying or unpredictable, can certainly be considered. Erection of a windsock or vane for monitoring may satisfy this request. What disposition would be made of undelivered shell products is an issue to be resolved between the County and the processors. You ask to reduce the period of time the product is held by the processors's something out of the control of my clients's but also ask that the product not be delivered when the wind is not right. Resolution of this issue also redounds to the County and others, and is no basis to either revoke or deny a permit.

3. As per the original DCD land application permit conditions for the protection of surface water, no land application of shells will be made within 100 ft of Teal Duck or Kindred Slough channels. Similarly, land application of shells will not occur within 30 ft of open ditches/surface water. In addition, there are no direct surface water runoff pathways from the land application areas to Teal Duck or Kindred Slough channels due to the lack of drainage ditches on the subject property and the preponderance of large buffers currently existing on either side of the slough channels.

An initial groundwater elevation analysis was completed as part of the attached Prior Converted Cropland Technical Memorandum completed by Mr. Rone Brewer of Sound Ecological Endeavors, LLC. The land application areas were determined to be between 3 ft and 12 feet above the likely groundwater table, in full compliance with the original 3 ft clearance requirement in the original DCD land application permit. In additions, plans had been prepared to install monitoring wells in and surrounding the land application areas to verify groundwater depths. Data from these wells can be provided if required by law for permit approval. The County or other agencies are free to conduct their own periodic testing; something they declined to do prior to the revocation of the permit. Finally in regard to groundwater, the agronomic analysis clearly shows that more nutrients will be removed from the soil by crops than is provided by the shells, therefore there is very little potential for leaching from these organic processed food wastes from the soil to the groundwater.

There are no known wells at or down gradient of the land application sites. In part, because groundwater from the land application sites very likely flows southward to Willapa Bay.

The report of Mr. Rone Brewer, Wetland Scientist, is attached. This report concludes that the property is Prior Converted Cropland (PCC). Application has been made to the NRCS for confirmation and approval of that conclusion. Given the spreading of shells has been conducted for decades by the land owners; this is a normal farming operation that is allowed under PCC and the Clean Water Act. Upon confirmation of the PCC designation by NRCS, the U.S. EPA will have no jurisdiction over farming operations at the properties. The NRCS procedures may include wetland delineation for their purposes.

4. Past soil test data are attached. Eight to ten soil sample locations will be placed surrounding and within the shell application areas. These placements will also be placed in different soil types to assess potential differential transport of applied minerals in finer and courser grained soils. The number of soil sample locations may be reduced following affirmation of no significant transport of applied

minerals. Soil samples will be submitted to an agricultural soils laboratory for standard mineral analysis. Results can be submitted to the County as required by law or legal and appropriate permitting conditions. Soil samples will be collected at a depth of approximately 1 ft below the ground surface using a stainless steel hand trowel. Soil will be placed in laboratory approved containers, sealed, labeled, and placed in an iced cooler for transport to the lab. Sample handling and transport will be conducted in accordance with required practices provided by the laboratory. Samples will be conducted once in the late spring before planting and once in the late fall after harvest. A map of sample locations can be provided with each data report submitted.

5. Please see number three above. If any contrary scientific conclusions are ultimately made regarding PCC, then if not already delineated satisfactorily, wetland and stream boundaries will be delineated and temporarily flagged for easy but timely monitoring by Agency officials. In this event, for longer-term use, the wetland boundaries will be mapped as a layer over an aerial photograph using CAD or GIS software. The wetland maps can be provided as legally required.

The Larsons are committed to this process and will continue to provide requested input or information, with the reservations noted above.

Regards,

*/s/ signed electronically*

C. Craig Holley  
Attorney for R. Terrance  
and Vicki Larson

enclosures

5.28.2013 Agronomic Rate Letter to Tim Crose  
5.23.2013 Soil Test report Letter to Tim Crose  
5.21.2013 Larson Technical Memorandum, Sound Ecological Endeavors  
5.23.2013 Soil Test Report to Tim Crose - Final

cc

via email: NRCS, Nick Vira  
District Conservationist

EPA, Edward J. Kowalski  
Director

U. S. Army Corps of Engineers  
David Martin, Chief  
Columbia River Section, Seattle District

DOE, Sally Toteff  
Regional Director

Congresswoman Jaime Herrera

Congressman "Doc" Hastings

John Stuhlmiller, WA Farm Bureau

JoAnn Shaffner, GH and PC Farm Bureau

Vladimir Shepsis,  
Principal Coastal Engineer  
Coast and Harbor Engineering, Inc.

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Richard Bambauer, President  
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